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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

B5

DATE: **AUG 09 2012** OFFICE: NEBRASKA SERVICE CENTER

FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a surgeon. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, “[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.”

On the Form I-290B Notice of Appeal, the petitioner checked a box reading “No supplemental brief and/or additional evidence will be submitted.” The petitioner did not indicate that any future supplement would follow. Therefore, the entire appeal consists of Form I-290B itself and a copy of the denial notice. The Form I-290B includes a space for the petitioner to “[p]rovide a statement explaining any erroneous conclusion of law or fact in the decision being appealed.” The appeal statement reads:

The record reflects [the petitioner] is an advanced degree professional with exceptional ability in the field of expertise. His work is in the field of medicine [which] has substantial intrinsic merit. His work is national in scope. The waiver of an approved labor certification is in the national interest of the United States.

It is not clear whether the petitioner or counsel wrote the statement. The petitioner signed Form I-290B, but the statement refers to the petitioner in the third person. Counsel’s name and signature do not appear on Form I-290B, but counsel’s return address is on the envelope that contained the appeal.

The statement on appeal does not explain how the director failed to take the petitioner’s previous evidence into consideration. The statement contains no allegation of any specific factual or legal errors or other deficiencies in the director’s decision. The appellate statement is merely an assertion that the petitioner is eligible for the waiver and, therefore, the director should have approved the petition. A bare assertion of eligibility is not a sufficient basis for a substantive appeal.

Because the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the AAO must summarily dismiss the appeal.

ORDER: The appeal is dismissed.